

ATTACHMENT 1

IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

_____ day _____, 20__

PRESENT: Supervisors

ABSENT:

RESOLUTION NO. _____

RESOLUTION TO PARTIALLY UPHOLD THE APPEAL OF ROBERT MUELLER AND
MODIFY THE DECISION OF THE HEARING OFFICER AND TO CONDITIONALLY
APPROVE THE APPLICATION OF VERIZON WIRELESS / LORI ANGELLO FOR
MINOR USE PERMIT DRC2014-00149

The following resolution is now offered and read:

WHEREAS, on October 2, 2015, the Zoning Administrator of the County of San Luis Obispo (hereinafter referred to as the Hearing Officer) duly considered and conditionally approved the application of Verizon Wireless / Lori Angello for Minor Use Permit DRC2014-00149; and

WHEREAS, Robert Mueller has appealed the Hearing Officer's decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the Board of Supervisors) pursuant to the applicable provisions of Title 23 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on February 2, 2016, and a determination and decision was made on February 2, 2016; and

ATTACHMENT 1

WHEREAS, at said hearing, the Board of Supervisors heard and received all oral and written protests, objections, and evidence, which were made, presented, or filed, and all persons present were given the opportunity to hear and be heard in respect to any matter relating to said appeal; and

WHEREAS, the Board of Supervisors has duly considered the appeal and finds that the appeal should be partially upheld and the decision of the Hearing Officer should be modified, and that the application (DRC2014-00149) should be approved subject to the findings and conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

1. That the recitals set forth hereinabove are true, correct and valid.
2. That this project is found to be categorically exempt from the provisions of the California Environmental Quality Act pursuant to California Code of Regulations, Title 14, Section 15303 (Class 3).
3. That the Board of Supervisors makes all of the findings of fact and determinations set forth in Exhibits A attached hereto and incorporated by reference herein as though set forth in full.
4. That the appeal filed by Robert Mueller is hereby partially upheld and the decision of the Hearing Officer is modified, and that the application of Verizon Wireless / Lori Angello for Minor Use Permit DRC2014-00149 is hereby approved subject to the conditions of approval set forth in Exhibit B, attached hereto and incorporated by reference herein as though set forth in full.

ATTACHMENT 1

Upon motion of Supervisor _____, seconded by Supervisor
_____, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing resolution is hereby adopted.

Chairperson of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL
County Counsel

By: 
Deputy County Counsel

Dated: January 12, 2016

ATTACHMENT 1

STATE OF CALIFORNIA,)
County of San Luis Obispo,) ss.

I, _____, County Clerk and ex-officio Clerk of the Board of Supervisors, in and for the County of San Luis Obispo, State of California, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of said Board of Supervisors, affixed this day of _____, 20__.

County Clerk and Ex-Officio Clerk of the Board
of Supervisors

(SEAL)

By _____ Deputy Clerk.

ATTACHMENT 1

EXHIBIT A – FINDINGS DRC2014-00149/ Verizon Wireless and Lori Angello

CEQA Exemption

- A. The project qualifies for a Categorical Exemption (Class 3) pursuant to CEQA Guidelines Section 15303 because the proposed project is minor in nature, involves little site disturbance, will not require the removal of any native vegetation, and will replace an existing light standard of a similar height.

Minor Use Permit

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan because the use is an allowed use and as conditioned is consistent with all of the General Plan policies.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- D. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the installation and operation of such a facility does not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the wireless communication facility will replace an existing light standard of a similar height and will not conflict with the surrounding lands and uses.
- F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project, because the project is located on Pier Avenue, a collector constructed to a level able to handle any additional traffic associated with the project

Coastal Access

- G. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act because the project would replace an existing light standard of a similar height within an existing fenced enclosure, and would not inhibit access to the coast.

ATTACHMENT 1

EXHIBIT B - CONDITIONS OF APPROVAL DRC2014-00149 / Verizon Wireless and Lori Angello

Approved Development

1. This approval authorizes the construction and operation of an unmanned wireless communications facility, consisting of the following improvements:
 - a. Installation of one new 1'-11.25" tall x 10" wide cylindrical panel antenna mounted on the top of a new 23' tall replacement light standard (total height to top of antenna shall be a maximum of 26').
 - b. Installation of two new Remote Radio Units (RRUs) mounted a maximum height of 5'-10" above ground on the replacement light standard. The RRUs shall be completely screened by the existing chain linked fence.
 - c. Installation of two ground mounted equipment cabinets with heights of 3'-4" and 4'-2" mounted to a 3' x 5' concrete slab located near the base of the replacement light standard to be completely screened by the existing chain linked fence.
2. All development shall be consistent with a revised site plan submitted to the Department of Planning and Building to include:
 - a. Area of ATV display.
 - b. Parking for at least three spaces – including striping and wheel-stops.
 - c. Solid fencing around outdoor repair areas.
 - d. Solid enclosure and location for dumpster.

Conditions required to be completed at the time of application for construction permits

3. **At the time of application for construction permits**, the applicant shall include a "condition compliance" sheet with the construction plans that includes a complete copy of the final conditions of approval for the project.

Fire Safety

4. **At the time of application for construction permits**, all plans submitted to the Department of Planning and Building shall meet the fire and life safety requirements of the California Fire Code.

Conditions to be completed prior to issuance of a construction permit

5. **Prior to issuance of a construction permit**, the applicant and/or landowner shall remove the existing cargo container from the site.
6. **Prior to issuance of a construction permit**, the applicant shall submit a color board for all proposed improvements (including, but not limited to, the antenna, RRUs, coaxial cables, associated mounting brackets, equipment cabinets, etc.). The replacement light standard, panel antenna, and RRUs shall be painted a matte finish light gray color

ATTACHMENT 1

Condition Compliance Coordinator

7. **Prior to issuance of a construction permit**, the applicant shall identify a Condition Compliance Coordinator (CCC) to ensure all conditions of approval and mitigation requirements are met. The CCC shall be the County's contact and shall be responsible to ensure all mitigation requirements are met. A pre-construction meeting shall take place between the CCC and the County to review the application and establish the responsibility and authority of the participants.

Hazards/Hazardous Materials

8. **Prior to issuance of a construction permit**, the applicant shall submit for review and approval a Hazardous Materials Business Plan for the proposed wireless communications facility to the County Environmental Health office for review and approval.

Site Restoration

9. **Prior to issuance of a construction permit**, the applicant shall post a performance agreement and financial instrument with the County in an amount commensurate with the cost of facility removal and site restoration. The performance agreement and financial instrument shall be released by the County at the time the facility is removed and the site is restored.

Conditions to be completed during project construction

Fire Safety

10. **During construction**, activities that pose an ignition source will have to comply with fire safety laws. This includes welding activities and use of heavy equipment. All equipment must be in compliance. Consideration of fuel breaks or other treatment shall occur in the construction area. If a fire ignites due to construction activities the responsible party may be liable for suppression costs.

Conditions to be completed prior to occupancy or final building inspection/establishment of the use

11. **Prior to final inspection**, the applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of approval.
12. The facility shall not be operated until all conditions of approval have been met and all required building permits have received final inspection.

Aesthetic/Visual Resources

13. **Prior to final inspection**, the applicant shall paint all proposed improvements (including, but not limited to the antenna, RRUs, coaxial cables, and associated mounting brackets) the color and finish approved by the Department of Planning and Building. Repainting shall occur as necessary.

Explanatory Warning Signs for Occupational Exposures

14. **Prior to final inspection**, explanatory warning signs* to prevent occupational exposures in excess of the FCC guidelines are to be posted at the site entrance gate and on or at the barrier fence and antennas such that they would be readily visible from any angle of

ATTACHMENT 1

approach to persons who might need to work near the antennas. (*Warning signs should comply with ANSI C95.2 color, symbol, and content conventions. In addition, contact information should be provided (e.g., a telephone number) to arrange for access to restricted areas).

Hazardous Materials

15. **Prior to final inspection**, the applicant shall provide verification from Environmental Health that the Hazardous Materials Business Plan has been implemented.

Mitigation Monitoring/Condition Compliance

16. **Prior to final inspection**, the CCC will incorporate the findings of the monitoring effort into a final comprehensive construction monitoring report to be submitted to the County of San Luis Obispo.
17. **Prior to occupancy or final inspection**, whichever occurs first, the applicant shall obtain final inspection and approval from the fire department of all required fire/life safety measures.
18. **Prior to occupancy of any structure associated with this approval**, the applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of this approval.
19. **Prior to occupancy or final inspection**, all public improvements have been constructed or reconstructed in accordance with County Public Improvement Standards and to the satisfaction of the County Public Works Inspector.

On-going conditions of approval (valid for the life of the project)

20. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
21. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Land Use Ordinance.
22. All obsolete or used facilities shall be removed within twelve months of cessation of the applicant's wireless communication operations on the site. The applicant shall be responsible for the removal of such facility and all associated structures and restoration of the site to pre-project condition. Restoration does not include removal of vegetation planted to provide visual screening. At the time the use of the facility is discontinued the owner of the facility must notify the Department of Planning and Building.

ATTACHMENT 1

Visual/Aesthetic Resources

23. The approved colors shall be maintained for the life of the project. Repainting and maintenance shall occur as necessary.
24. If new technology is developed that reduces the impacts of the proposed project, the applicant agrees to install such improvements within 6 months of notification by the county.

Co-location

25. For the life of the project, the applicant shall allow other carriers to collocate on the new light standard, if technically feasible.

Electric and Magnetic Fields

26. The facility shall be designed and operated to ensure that power densities received from transmissions, with all transmitters at the site transmitting at full power, will comply with federal law and regulation.

Lighting

27. No exterior lighting is approved for the project.

Defense and Indemnity

28. **Within ten (10) days of final approval of this minor use permit**, the applicant shall, as a condition of approval, enter into and record an agreement, in a form approved by County Counsel and executed by the Director of the Department of Planning and Building, providing for the defense and indemnity of the County of San Luis Obispo, its present or former officers, agents, or employees, at the applicant's sole expense, against any action brought by a third party challenging either the decision to approve this minor use permit or the manner in which the County is interpreting or enforcing the conditions of this minor use permit, or any other action by a third party relating to or arising out of the approval or implementation of this minor use permit. The agreement shall provide that the applicant shall indemnify the County and reimburse it for any costs and/or attorney's fees which the County incurs as a result of such action, and that the County's participation or non-participation in any such litigation shall not relieve the applicant of his or her obligations under this condition or the agreement.